FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * * *

The above matter comes before the Zoning Commissioner as a Petition for a Zoning Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a lot width of 50 ft., in lieu of the required 55 ft. in a D.R.5.5 zone, as more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition.

The Petitioner, Kenneth W. Daniels, appeared and testified. Also appearing and testifying on behalf of the Petition was Marie Gomeringer, the Real Estate Agent for the sale of the subject lot, and who resides in the neighborhood at 708 Dorsey Avenue. There were no Protestants.

Testimony and evidence indicated that the Petitioners, Kenneth W. and Sharon A. Daniels recently acquired the subject lot, known as 712 Dorsey Avenue. Mr. Daniels testified that he purchased the lot from Stengle K. Watkins and desires to build a single family dwelling thereon. He proposes the dwelling to have a width of no more than 30 ft., so that there will be 10 ft. setbacks on both sides of the dwelling. Mr. Daniels further testified that neither he nor Mr. Watkins own any of the adjacent properties on either side of the subject lot. He further testified there are a number of houses in this community that are undersized and built on 50 ft.

He stated if the variance was denied, he would suffer practical difficulty and the lot would be unbuildable.

Ms. Marie Gomeringer concurs with Mr. Daniels' testimony indicating there are a number of houses in the vicinity that are built on 50 ft. lots and that she is aware of no neighborhood opposition to the request.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variance was not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular par-

cel. In addition, the variance requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore for Zoning Variance, a variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a lot width of 50 ft., in lieu of the required 55 ft. in a D.R.5.5 zone, in accordance with the Petitioners' Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

> 1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Prior to the issuance of a building permit an architectural drawing of the proposed dwelling shall be submitted for review by the Deputy Director of the Office of Planning and Zoning to ensure that the size of the home is compatible with those existing in the neighborhood.

3. Compliance with the Department of Environmental Protection and Resource Management recommendations to be submitted upon completion of their review of this matter.

> LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

LES/mmn

-3-

Petition for Variance

to the Zoning Commissioner of Baltimore County The undersigned, legel owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section _1802.3C.1 - to allow a lot width of 50' in ligu of the__

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) Cannot build anything on the lot since it has existed since 1930, and most dwellings on this street and in this neighborhood are on 50' wide lots.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Pelition.

Legal Owner(s): KENNESSE D. DADIELS SHALLS A. DAVIEW STENGLE K WATHINS (Type or Print Name)

(Type or Print Name)

(Type or Print Name)

Signature

312 J. na. 312 d. MANLYD AUS

BACTIMONE MED 2120)
City and State Pubbe 391-7526 9613 CORDOVA ROAD 361-830-8733
Address Phone No. Attorney for Petitioner: Phone No.

SASTON MD 31601

City and State (Type or Print Name) Name, address and phone number of legal owner, contract purchaser or representative to be contacted

KENNETH W. DANIELS 312 1 - 12 12 An 391-752 6

ESTIMATED LENGTH OF HEARING (-1/2HR)
AVAILABLE FOR HEARING MON./TUES./WED. - HEXT TWO MONTHS

ZOANG DESCRIPTION

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CERTIFICATE OF POSTING MG DEPARTMENT OF BALTIMORE COUNTY Towns, Maryland

District 15th	Date of Pesting 17-/16/9/
Posted for: Waylance	
Potitioner: Stony of N. Wathers & A	Connett + Steren Daniels
Location of property: 14/5 Daysey A	11. 486 E/STUNTSY
7/2 Dorsey Are	/
Location of Signe Facility Poissy	17xx. ggr x x 23 j=x roodway
On property 10 6. 20 3/2	<u> </u>
Remarks:	************************************
Posted by Mathatey	Date of return: 13/20/9/

CERTIFICATE OF PUBLICATION

HOTICE OF HEAVENS The Zening Commissions of Baltimore County, by authority of the Zoninr. Act and Regulations of Baltimo. « County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chasapesias Avenue in Toweon, Maryland 21204 as follows:

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on 12/12.191.

THE JEFFERSONIAN,

5. Zele Olim

\$70.76

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

January 7, 1992

Mr. and Mrs. Kenneth Daniels 312 N. Marlyn Avenue Baltimore, Maryland 21221

RE: Petition for Zoning Variance

Dear Mr. and Mrs. Daniels:

Case No. 92-225-A

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Zoning Commissioner

cc: Mr Stengle K. Watkins cc: Mrs. Marie Gomeringer

LES:mmn

The Zening Commissioner of Baltimore County, by authority of the public hearing on the property dentified herein in Room 106 of the County Office Building, located at 111 W. Cheespeake Averus in Towson, Maryland 21204 Vertence: to allow a lot width o 50 feet in lieu of the required 50

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was publish ed in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md. __successive weeks, the first publication appearing

> NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

111 West Chesapeake Avenue Towson, MD 21204

Kenneth W. Daniels 312 N. Marlyn Avenue

Baltimore, Maryland 21221

THTE: 1-6-42

CASE NUMBER: 92-225-A N/S Dorsey Avenue, 480' E of c/1 Stuart Street 712 Dorsey Avenue 15th Election District - 5th Councilmanic Legal Owner(s): Stengle K. Watkins

Contract Purchaser(s): Kenneth and Sharon Daniels Dear Petitioner(s):

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

887-3353

Your petition has been received and accepted for filing this 22nd day of November , 1991.

Petitioner: Stengle K. Watkins Petitioner's Attorney:

Baltimore County Government
Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

MECEMBER 5, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-225-A N/S Dorsey Avenue, 480' E of c/1 Stuart Street 712 Dorsey Avenue 15th Election District - 5th Councilmanic Legal Owner(s): Stengle K. Watkins Contract Purchaser(s): Kenneth and Sharon Daniels HEARING: FRIDAY, JANUARY 3, 1992 at 11:00 a.m.

Variance to allow a lot width of 50 feet in lieu of the required 55 feet.

cc: Stengle Watkins

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

Zoning Administration and Development Management

Arnold Jablon, Director DATE: December 6, 1991

Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: Watkins Property, Item No. 238

Should the applicant's request be granted, staff offers the following conditions be attached:

Prior to the issuance of a building permit, an architectural drawing of the proposed dwelling shall be submitted for review by the deputy director of the Office of Planning and Zoning to ensure that the size of the home is compatible with those existing in the neighborhood.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL:rdn ITEM238/TXTROZ

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

December 20, 1991

Mr. Stengle K. Watkins 9613 Cordova Road Easton, MD 21601

RE: Item No. 238, Case No. 92-225-A Petitioner: Stengle K. Watkins Petition for Variance

Dear Mr. Watkins

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with above referenced petition. The attached comments from each reviewing agency are not intended to assure that that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this

Baltimore County Government
Office of Zoning Administration

and Development Management Office of Planning & Zoning

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning peitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorners who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnell.

> BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS

BALTIMORE COUNTY, MARYLAND

This office has no comments for item numbers 235, 236 and 238.

Traffic Engineer II

Mr. Arnold Jablon, Director

and Development Management

Rahee J. Famili

Z.A.C. MEETING DATE: December 2, 1991

SUBJECT: Z.A.C. Comments

Office of Zoning Administration

JED: jw

Enclosures

Zoning Plans Advisory Committe Coments

in the loss of filing fee.

cc: Mr. Kenneth W. Daniels

312 N. Marlyn Avenue

Baltimore, MD 21221

Anyone using this system should be fully aware

will be reviewed and commented on by Zoning personnel

prior to the hearing. In the event that the petition

will deny the petition due to errors or imcompleteness.

3) Attorneys and/or engineers who make appointments

the appointment without a 72 hour notice will be required

appointments are made. Failure to keep these appointments

without proper advance notice, i.e. 72 hours, will result

to submit the appropriate filing fee at the time future

to file petitions on a regular basis and fail to keep

that they are responsible for the accuracy and completeness

has not been filed correctly, there is always a possiblity

that another hearing will be required or the Zoning Commissioner

Zoning Plans Advisory Committee

of any such petition. All Petitions filed in this manner

Date: December 20, 1991

Page 2

Baltimore County Government Fire Department

700 East Joppa Road Suite 901 Towson, MD 21204-5500

(301) 887-4500

DECEMBER 6, 1991

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Building

RE: Property Owner: STENGLE K. WATKINS

#712 DORSEY AVENUE Location: Zoning Agenda: DECEMBER 3, 1991 Item No.: 238

Gentlemen:

Towson, MD 21204

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: 4+ Proved Approved CALUT Fire Prevention Bureau Planning Group Special Inspection Division

JP/KEK

DATE: December 17, 1991

9-25-A 1-3-91

RJF/lvd

PALTIMORE COUNTY, MARYLAND INTEROFFICE COERESFONDENCE ...

The Armel's Wables, Director DATE. November 29, 1881 Sening Administration and Sevelepment Management FIRM. Robert W. Edwling, F.E.

op: Julie Able w Jumilitee Messing of the Description of the Description of the Control of the C

The Developer Engineering Sivilin has reviewed in a superior of the contract of the contract of the following states and the comments of the following states are superior of the following states and the contract of the following states are superior of the following states are sup

For Item 200, the previous County Review Group Comments still apply.

For Inem 186, the previous minor subdivision review comments still apply.

Developers Engineering Division

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

3/18/92 4218-92

DATE: March 16, 1992

TO: Mr. Arnold E. Jablon, Director Office of Zoning Administration

FROM: J. James Dieter, Director

and Development Management

SUBJECT: Petition for Zoning Variance - Case No. 92-225-A Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 712 Dorsey Avenue. The site is within the Chesapeake Bay Critical Area and is classified as an Intensely Developed Area (IDA).

APPLICANT'S NAME Mr. and Mrs. Kenneth Daniels

APPLICANT PROPOSAL

The applicant has requested a variance from section 1802.3C.1 of the Baltimore County Zoning Regulations to permit a lot width of 50 feet in lieu of the required 55 feet.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

- 1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- 2. Conserve fish, wildlife and plant habitat; and



Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

ZONING OFFICE

Memo to Mr. Robert C. Covahey March 16, 1992 Page 2

REGULATIONS AND FINDINGS

Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Section 26-449(a)>.

Finding: This property is located approximately 100 feet from the tidal waters of Duck Creek. Therefore, no clearing grading or disturbance of the buffer shall occur.

 Regulation: "A minimum 25 foot buffer shall be maintained around all non-tidal wetlands so that development or other activities will not adversely affect the wetlands or the wildlife contained therein" <Baltimore County Code Section 26-448(a)>.

Finding: No wetlands exist on this site or in the vicinity of the site, therefore, no disturbance of wetlands shall occur.

Regulation: "New development and redevelopment within the IDA shall use Best Management Practices or other technology which reduces pollutant loadings by 10% of the on-site level prior to new development or redevelopment" <Baltimore County Code Section 26-452(a)>.

Finding: The applicant shall install a drywell to collect and infiltrate the first half inch of rooftop runoff. Infiltration of stormwater is a recommended best management practice in the Critical Area Commission's Guidance Paper No. 5 titled "A Framework for Evaluating Compliance with the 10% Rule in the Chesapeake Bay Critical Area" and will bring this project into compliance with the above regulation.

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above. This proposal does comply with Chesapeake Bay Critical Area Regulations, and is therefore approved. If there are any questions, please contact Ms. Patricia M. Farr at 887-2904.



JJD:NSP:ju Attachment cc: Mr. Kenneth Daniels WATKINS/TXTNSS









